

involved situations where Platt had Administration contacts for other reasons – while attending fund-raising events, for instance – into which Havenick mistakenly inferred a Hudson component.

2. Eckstein Provides an Affidavit Regarding Contact with Secretary Babbitt in Litigation Challenging DOI's Denial of the Hudson Application

On Sept. 15, 1995, the applicants filed their federal lawsuit, naming as defendants Secretary Babbitt, Deputy Assistant Secretary Anderson, Counselor to the Secretary Duffy, and IGMS Director Skibine. The complaint identified nine claims for relief, consisting mostly of allegations that DOI had violated the applicants' rights to due process by allowing additional comments, meeting with opponents without notice to the applicants, and failing to sufficiently consult with the applicants about the application.

In support of the litigation, Fred Havenick and his attorneys, Robert Frieber and Todd Farris of Frieber, Finerty & St. John, S.C., traveled to Phoenix on Dec. 8, 1995, to interview Paul Eckstein about his dealings with DOI and his July 14 meeting with Secretary Babbitt. Havenick introduced the attorneys to Eckstein, and then left the meeting. The attorneys described to Eckstein the status of the litigation. Eckstein recalls that he spoke with Frieber and Farris for more than an hour, answering their questions, but not volunteering anything. At some point during this interview or soon thereafter, Frieber informed Eckstein that he and Farris would be drafting an affidavit for Eckstein's signature.⁵⁰⁶

⁵⁰⁶Frieber's and Farris's recollections and notes of this meeting indicate that Eckstein made no mention at this time of the alleged Indian contributions remark by Babbitt, though he fully recounted the remark about Harold Ickes, as reflected in the resulting affidavit. Frieber recalls, and his notes confirm, that in April 1997 Eckstein described to Frieber the Indian

(continued...)